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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,909	01/17/2002	Timothy G. Helentjaris	BB1163 US CIP	3323
27123	7590	03/31/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			ROBINSON, HOPE A	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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03232005

DATE MAILED:

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**Commissioner for Patents**

The communication filed December 20, 2004 is not fully responsive to the Office communication mailed October 20, 2003 because no action was taken in the application to address the issues raised and prosecution is closed. With regard to rejoinder Practice in After Final situations, MPEP section 821.04 states ... "Process claims which depend from or otherwise include all the limitations of the patentable product claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance. Amendments submitted after final rejections are governed by 37 CFR 1.116."

Therefore, even in rejoinder situations, amendments presented After Final are governed by 37 CFR 1.116. The instant process claims would be subject to rejections under 35 U.S.C. 112, first and second paragraphs.

Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. See MPEP § 804.01.


Since the reply appears to be bona fide attempt to comply applicant is given a TIME PERIOD of ONE (1) MONTH from the mailing date of this communication within which to correct the deficiency in order to avoid abandonment of the application. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope A. Robinson, MS  
Patent Examiner

*He*  
3/23/05

  
JON WEBER  
SUPERVISORY PATENT EXAMINER

*R*